



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0419; FRL-9988-11-Region 4]

Air Plan Approval; North Carolina Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of State Implementation Plan (SIP) revisions provided by the State of North Carolina through the North Carolina Division of Air Quality (NCDAQ) in letters dated June 5, 2017, and August 22, 2017. The submissions revise several regulations concerning nitrogen oxides (NO_x), emission control standards, monitoring, and reporting requirements. EPA is taking final action to approve these provisions of the SIP revisions because these changes are consistent with the Clean Air Act (CAA or Act) and federal regulations.

DATES: This rule will be effective [Insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0419. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can also be reached via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

NCDAQ submitted SIP revisions through letters dated June 5, 2017, and August 22, 2017 to EPA for review and approval into the North Carolina SIP.¹ North Carolina's SIP revisions include multiple changes to its air quality rules, under Subchapter 15A North Carolina Administrative Code (NCAC) 02D, specifically at Section .1404, "Recordkeeping: Reporting: Monitoring," Section .0542, "Control of Particulate Emissions from Cotton Ginning Operations," Section .0606, "Sources Covered by Appendix P of 40 CFR Part 51," and Section .0608, "Other

¹ The SIP revisions were received by EPA on June 6, 2017, and September 6, 2017, respectively.

Large Coal or Residual Oil Burners.’’² EPA is not taking action on Section .0535, “Excess Emissions Reporting and Malfunctions” which is included in the changes in the August 22, 2017 SIP revision. EPA will address changes to Section .0535 in a separate action.

In a notice of proposed rulemaking (NPRM) published on November 14, 2018 (83 FR 56773), EPA proposed to approve the SIP submissions transmitted under cover letters dated June 5, 2017, and August 22, 2017. The specific details of the SIP submissions and the rationale for EPA’s actions are discussed in the NPRM. Comments on the proposed rulemaking were due on or before December 5, 2018. EPA received five comments in total - one comment that is not relevant to the action, two comments that support the revision and two adverse comments. The comments can be found in the docket for this action. After considering the adverse comments, EPA is now taking final action to approve the above-referenced revision.

II. Response to Comments

Comments: As mentioned above, EPA received two adverse public comments on the proposed rule published on November 14, 2018. The comments are available for public viewing as a part of the electronic docket for this rulemaking. The first Commenter notes that if the revisions are in line with the CAA and federal regulations, they should be approved; however, “if they are considered worse, such as they are raising the emission rates for certain vendors, this should be addressed and maybe suggest a stricter standard if it is feasible.” The second Commenter asserts that “[i]n the past year, the Clean Air Act has been revised to be less harsh for energy plants. With a more relaxed Clean Air Act, the United States air quality and overall

² In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as “Subchapter 2D Air Pollution Control Requirements.”

environmental health can take a toll. In the past 50 years ago, toxic pollutants like sulfur dioxide and smog have been reduced. With this proposed rule, this could completely reverse the progress the act has made thus far. These proposed changes should consider the long-term effects on the environment.”

Response: It is unclear how either of the comments relate to the proposed rule or how the commenters would like EPA to change the proposed rule. The rule changes being approved do not involve any changes (including increases) to emission rates, nor do they implicate any long-term effects on the environment. Rather, as discussed in the notice of proposed rulemaking, the changes to the NO_x recordkeeping, reporting, and monitoring rule involve minor typographical and clarifying changes that do not relax the rule, and the addition of sources subject to continuous emissions monitoring for NO_x strengthens the SIP. Changes to the other rules are either minor or clarifying and do not alter the meaning of the rules or they are consistent with the requirements of the CAA and federal regulations.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is taking final action to incorporate by reference North Carolina regulations under Subchapter 2D Air Pollution Control Requirements, Section .1404, “Recordkeeping: Reporting: Monitoring,” effective January 1, 2009,³ which clarifies the rule by updating quality assurance, recordkeeping and reporting requirements and provisions for heat input calculations and removes references to repealed rules. EPA is also

³ January 1, 2009 is the most recent state effective date of Subchapter 2D, Section .1404, “Recordkeeping: Reporting: Monitoring,” and it reflects the exact version of the text of Section .1404 that EPA is proposing to approve into the SIP.

taking final action to incorporate by reference regulations under Subchapter 2D, Section .0542, “Control of Particulate Emissions from Cotton Ginning Operations,” Section .0606, “Sources Covered by Appendix P of 40 CFR Part 51,” and Section .0608, “Other Large Coal or Residual Oil Burners,” effective June 1, 2008, which make minor and clarifying changes, update rule references, and remove obsolete controls and dates. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State’s implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

IV. Final Action

EPA is taking final action to approve the portions of the SIP revisions referenced above and provided by the NCDAQ in letters dated June 5, 2017, and August 22, 2017. EPA is taking final action to approve the changes because the submissions are consistent with section 110 of the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices,

⁴ *See* 62 FR 27968 (May 22, 1997).

provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these final actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 6, 2018.

Mary S. Walker,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart II - North Carolina

2. Section 52.1770(c)(1) is amended under Subchapter 2D Air Pollution Control Requirements, by revising the entries for “Section .0542”; “Section .0606”, “Section .0608”; and “Section .1404” to read as follows:

§52.1770 Identification of plan.

(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
**	**	*	*	*
Section .0500 Emission Control Standards				
**	**	*	*	*
Section .0542	Control of Particulate Emissions from Cotton Ginning Operations	6/1/2008	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*
Section .0600 Monitoring: Recordkeeping: Reporting				
**	**	*	*	*

Section .0606	Sources Covered By Appendix P of 40 CFR Part 51	6/1/2008	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*
Section .0608	Other Large Coal or Residual Oil Burners	6/1/2008	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*
Section .1400 Nitrogen Oxides				
**	**	*	*	*
Section .1404	Recordkeeping: Reporting: Monitoring	1/1/2009	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*

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[FR Doc. 2018-27358 Filed: 12/18/2018 8:45 am; Publication Date: 12/19/2018]